

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

ELIZABETH ROWLAND, Plaintiff,

vs.

PARIS LAS VEGAS, CAESARS
ENTERTAINMENT OPERATING
COMPANY, INC., and DOES 1 to 25,
inclusive,

Defendants.

Case No. 3:13-cv-02630-GPC-DHB

ORDER:

**1) DENYING DEFENDANTS'
MOTION TO DISMISS
PLAINTIFF'S FIRST AMENDED
COMPLAINT**

[Dkt. No. 11.]

2) VACATING MOTION HEARING

INTRODUCTION

Presently before the Court is a Motion to Dismiss Plaintiff Elizabeth Rowland's ("Plaintiff") First Amended Complaint for lack of personal jurisdiction filed by Specially Appearing Defendants Caesars Entertainment Corporation and Paris Las Vegas Operating Company, LLC¹. (Dkt. No. 11.) The parties have fully briefed the

¹The motion states that it is filed by Paris Las Vegas Operating Company, LLC, (erroneously named herein as Paris Las Vegas Propco, LLC). As discussed below, the Court addresses Defendants' motion to dismiss for lack of personal jurisdiction in relation to the Defendants named in the FAC.

1 motion. (Dkt. Nos. 13, 14.) The Court finds the motion suitable for disposition without
 2 oral argument pursuant to Civil Local Rule 7.1(d)(1). Upon review of the moving
 3 papers, admissible evidence, and applicable law, the Court DENIES Defendants'
 4 Motion.

5 **BACKGROUND**

6 **I. Plaintiff's Allegations**

7 This action arises out of Plaintiff's May 2013 visit to the Paris Las Vegas Hotel
 8 and Casino in Las Vegas, Nevada ("Paris Las Vegas Hotel"). (Dkt. No. 8, "FAC" ¶¶
 9 10, 15.) Plaintiff alleges slipping upon a "clear filmy substance" substance on the tile
 10 flooring at the Paris Las Vegas Hotel on May 16, 2013, causing her to fall and sustain
 11 personal injuries including a broken hip. (FAC ¶ 15.) Plaintiff alleges her injuries "will
 12 result in some permanent disability to her," and that the injuries "have caused, and will
 13 continue to cause, Plaintiff great mental, physical, and nervous pain and suffering."
 14 (FAC ¶ 20.)

15 **II. Procedural History**

16 On September 6, 2013, Plaintiff Elizabeth Rowland ("Plaintiff") filed a
 17 complaint against Paris Las Vegas and Caesars Entertainment Operating Company, Inc.
 18 in California Superior Court. (Dkt. No. 1, Ex. 3 "Compl.") On March 26, 2014,
 19 Plaintiff filed a First Amended Complaint ("FAC") alleging one cause of action for
 20 negligence. (Dkt. No. 8, FAC.) The FAC identifies Defendant "Paris Las Vegas," upon
 21 information and belief, as "Paris Las Vegas Propco, LLC." (FAC ¶ 4.) On June
 22 26, 2014, Defendants filed the present motion to dismiss or transfer venue pursuant to
 23 Federal Rules of Civil Procedure 12(b)(2) and 12(b)(3). (Dkt. No. 11.)

24 **III. Jurisdictional Allegations**

25 Plaintiff is a resident of the County of San Diego, California. (FAC ¶ 1.) Plaintiff
 26 alleges Defendant Caesars Entertainment Corporation operates the Harrah's Rincon
 27 Hotel and Casino in Valley Center, California and is the 100% direct owner of
 28 Defendant Paris Las Vegas Propco, LLC. (FAC ¶¶ 3, 4.) Plaintiff alleges Defendant

1 Caesars Entertainment Corporation started an “industry revolutionizing” Total Rewards
 2 loyalty program in 1997 designed to market cross-property play to a “large and
 3 recurring customer base in California” between the Harrah’s Rincon Hotel and Casino
 4 in Valley Center, California and the Paris Las Vegas Hotel in Las Vegas, Nevada.
 5 (FAC ¶ 6.)

6 Plaintiff further alleges frequenting the Harrah’s Rincon Hotel and Casino “at
 7 all times herein mentioned, and particularly for the last few calendar years.” (FAC ¶
 8 13.) According to Plaintiff, she was and is a member of the Total Rewards loyalty
 9 program, earning “points” toward the program by staying and/or gambling at the
 10 Harrah’s Rincon Hotel and Casino. (*Id.*) Plaintiff alleges receiving frequent
 11 announcements, advertisements, and offers to redeem Total Reward loyalty program
 12 points at Caesars hotel and casino properties, including the Paris Las Vegas Hotel and
 13 Casino in Las Vegas, Nevada. (*Id.*) Plaintiff alleges the room she stayed at in the Paris
 14 Las Vegas Hotel and Casino on May 16, 2013 was given to her on a complimentary
 15 basis, arranged for by Joseph Izidoro, Executive Casino Host at Harrah’s Rincon Hotel
 16 and Casino in Valley Center, California. (FAC ¶ 14; Dkt. No. 13-3, Holcombe Decl.
 17 ¶ 5; Dkt. No. 13-4, Holcombe Decl. ¶ 5.)

18 **LEGAL STANDARD**

19 The exercise of personal jurisdiction over a nonresident defendant must be
 20 authorized under both state and federal law. St. Ventures, LLC v. KBA Assets &
 21 Acquisitions, LLC, 1:12-CV-01058-LJO, 2013 WL 1749901 at *3 (E.D. Cal. Apr. 23,
 22 2013). California’s long-arm statute is coextensive with the limits of due process set
 23 by the United States Constitution. Cal. Civ. Proc. Code § 410.10. Thus, “the
 24 jurisdictional analyses under state law and federal due process are the same.” Mavrix
 25 Photo, Inc. v. Brand Techs., Inc., 647 F.3d 1218, 1223 (9th Cir. 2011), cert. denied, 132
 26 S. Ct. 1101 (2012).

27 Due process requires that a defendant “must have ‘certain minimum contacts’
 28 with the relevant forum such that the maintenance of the suit does not offend

1 ‘traditional notions of fair play and substantial justice.’’’ Mavrix Photo, 647 F.3d at
 2 1223 (quoting Int’l Shoe Co. v. Washington, 326 U.S. 310, 316 (1945)).

3 The type of minimum contacts required to exercise personal jurisdiction over a
 4 nonresident defendant may be “specific” or “general” in nature. A court may have
 5 general jurisdiction over a defendant where “the defendant’s contacts with the forum
 6 state are so pervasive as to justify the exercise of jurisdiction over the person in all
 7 matters.” St. Ventures, 2013 WL 1749901 at *3. Specific jurisdiction, on the other
 8 hand, “arises out of the defendant’s contacts with the forum giving rise to the subject
 9 of the litigation” and only applies to the case at issue. Id.

10 When a defendant moves to dismiss for lack of personal jurisdiction, the plaintiff
 11 has the burden of establishing that jurisdiction is proper. Washington Shoe Co. v. A-Z
 12 Sporting Goods Inc., 704 F.3d 668, 671-72 (9th Cir. 2012). Each defendant’s contacts
 13 with the forum state must be considered individually, unless the plaintiff establishes
 14 the defendant’s actions are reasonably attributable to the other defendants. SDS Korea
 15 Co., Ltd. v. SDS USA, Inc., 732 F. Supp. 2d 1062, 1071 (S.D. Cal. 2010) (citing
 16 Indiana Plumbing Supply, Inc. v. Standard of Lynn, Inc., 880 F. Supp. 743, 750-51
 17 (C.D. Cal. 1995)). In the absence of an evidentiary hearing, the plaintiff need only
 18 make a “‘prima facie showing of jurisdictional facts to withstand the motion to
 19 dismiss.’’’ Id. (quoting Pebble Beach Co. v. Caddy, 453 F.3d 1151, 1154 (9th Cir.
 20 2006)).

21 Under this *prima facie* burden of proof, the plaintiff need only establish facts,
 22 through admissible evidence, that if true would support personal jurisdiction over the
 23 defendant. See Ballard v. Savage, 65 F.3d 1495, 1498 (9th Cir. 1995) (citing Data Disc,
 24 Inc. v. Sys. Tech. Assocs., Inc., 557 F.2d 1280, 1285 (9th Cir. 1977)). Uncontroverted
 25 allegations in the complaint must be taken as true. AT & T Co. v. Compagnie Bruxelles
 26 Lambert, 94 F.3d 586, 588 (9th Cir. 1996). However, the court may not assume the
 27 truth of such allegations if they are contradicted by affidavit. Data Disc, Inc., 557 F.2d
 28 at 1284. All disputed facts must be resolved in favor of the plaintiff. Washington Shoe,

1 704 F.3d at 671-72; see also AT & T Co., 94 F.3d at 588 (“[C]onflicts between the
 2 facts contained in the parties’ affidavits must be resolved in [plaintiff’s] favor for
 3 purposes of deciding whether a *prima facie* case for personal jurisdiction exists.”)
 4 (quoting WNS, Inc. v. Farrow, 884 F.2d 200, 203 (5th Cir. 1989)).

5 **DISCUSSION**

6 **I. Proper Defendants**

7 The Court first notes that although the FAC includes allegations against
 8 “Caesars Entertainment Corporation” and “Paris Las Vegas Propco, LLC,” the
 9 caption lists Defendants as “Paris Las Vegas” and “Caesars Entertainment
 10 Operating Company, Inc.” (Dkt. No. 8.) Under Federal Rules of Civil Procedure
 11 10(a), every pleading must have a caption that names all the parties to the action.
 12 Fed. R. Civ. P. 10(a). However, the Ninth Circuit has held that “the question of
 13 whether a defendant is properly named in a case is not resolved by merely reading
 14 the caption of a complaint. Rather, a party may be properly in a case if the
 15 allegations in the body of the complaint make it plain that the party is intended as a
 16 defendant.” Rice v. Hamilton Air Force Base Commissary, 720 F.2d 1082, 1085
 17 (9th Cir. 1983) (citing Hoffman v. Halden, 268 F.2d 280 (9th Cir. 1959)).
 18 Accordingly, the Court considers the present motion to dismiss or transfer venue in
 19 relation to Plaintiff’s allegations against Defendants Caesars Entertainment
 20 Corporation (“Caesars”), and Paris Las Vegas Propco, LLC (“Paris Las Vegas
 21 Propco”).

22 In addition, Defendants’ counsel submits a declaration acknowledging that,
 23 subsequent to Plaintiff’s filing of the FAC, “Paris Las Vegas Propco, LLC” has
 24 been dissolved and has transferred ownership of the Paris Las Vegas Hotel to an
 25 entity named “Paris Las Vegas Operating Company, LLC.” (Dkt. No. 11-3, Roberts
 26 Decl. ¶ 6.) Defendants’ counsel declares that she provided this information to
 27 Plaintiff’s counsel on April 29, 2014, but that “ROWLAND’s counsel took no
 28 action to name the correct owner of Paris Las Vegas.” (Id.) (emphasis in original).

1 Accordingly, Defendants' motion indicates that it is filed by "Paris Las Vegas
 2 Operating Company, LLC (erroneously named herein as Paris Las Vegas Propco,
 3 LLC). (Dkt. No. 11.)

4 However, the Parties have not, by motion or joint motion, moved to amend
 5 the FAC or the case caption or to substitute Paris Las Vegas Operating Company
 6 into the present action as a successor-in-interest. Fed. R. Civ. P. 25(c). Unless and
 7 until a proper motion is made by any Party to substitute Paris Las Vegas Operating
 8 Company, LLC into the present action, the Court addresses the present motion in
 9 relation to Defendant Paris Las Vegas Propco, LLC as the owner/operator of the
 10 Paris Las Vegas Hotel & Casino in Las Vegas, Nevada at the time in question as
 11 named and alleged in Plaintiff's TAC. (See Dkt. No. 8, FAC ¶ 4.)

12 **II. Requests for Judicial Notice and Objections to Evidence**

13 The Federal Rules of Evidence provide that judicial notice may be taken of
 14 adjudicative facts. See Fed. R. Evid. 201(a). A judicially noticed fact must be one
 15 not subject to reasonable dispute in that it is either (1) generally known within the
 16 territorial jurisdiction of the trial court or (2) capable of accurate and ready
 17 determination by resort to sources whose accuracy cannot be reasonably questioned.
 18 See Fed. R. Evid. 201(b). "Since the effect of taking judicial notice under Rule 201
 19 is to preclude a party from introducing contrary evidence and in effect, directing a
 20 verdict against him as to the fact noticed, the fact must be one that only an
 21 unreasonable person would insist on disputing." United States v. Jones, 29 F.3d
 22 1549, 1553 (11th Cir. 1994) (citing 21 C. Wright & K. Graham, Federal Practice &
 23 Procedure: Evidence § 5104 at 485 (1977 & Supp. 1994)).

24 **A. Plaintiff's request for judicial notice**

25 Plaintiff requests judicial notice of seven documents: various filings with the
 26 Securities and Exchange Commission; California Gambling Control Commission
 27 licensing documents; the U.S. District Court opinion in Day v. Harrah's Hotel &
 28 Casino Las Vegas, 2010 U.S. Dist. LEXIS 116817; the declaration of Duane D.

1 Hollaway filed in Case No. 11cv2567 JLS (POR) in this district²; and the complaint
 2 filed in Case No. 11-90003-LA in U.S. Bankruptcy Court for the Southern District
 3 of California. (Dkt. Nos. 13-1, 13-2.) The content of records of administrative
 4 bodies are proper subjects for judicial notice under Rule 201(d), Interstate Natural
 5 Gas Co. v. S. Cal. Gas Co., 209 F.2d 380, 385 (9th Cir. 1953), as are court filings
 6 and other matters of public record, Reyn's Pasta Bella, LLC v. Visa USA, Inc., 442
 7 F.3d 741, 746 n.6 (9th Cir. 2006). Since Defendant does not dispute judicial notice
 8 of Plaintiff's documents, and the documents are properly subject to judicial notice,
 9 the Court GRANTS Plaintiff's request for judicial notice.

10 However, although the Court takes notice of the filing of the respective
 11 documents, the Court declines to take judicial notice of the declaration, court
 12 filings, or public records for the truth of the matters asserted therein. See In re Bare
 13 Escentuals, Inc. Sec. Lit., 745 F. Supp. 2d at 1067.

14 **B. Defendant's objections to evidence**

15 Defendant raises numerous objections to Plaintiff's declarations and
 16 supporting exhibits, and moves to strike the declarations and exhibits in their
 17 entirety. (Dkt. Nos. 14-1, 14-2, 14-3.) The Court has reviewed Defendant's
 18 evidentiary objections and declines to discuss each objection individually. See Doe
 19 v. Starbucks, Inc., No. 08-0582 AG (Cwx), 2009 WL 5183773 at *1 ("[I]t is often
 20 unnecessary and impractical for a court to methodically scrutinize each objection
 21 and give a full analysis of each argument raised. This is especially true when many
 22 of the objections are boilerplate recitations of evidentiary principles or blanket
 23 objections without analysis applied to specific items of evidence."); see also
 24 Stonefire Grill, Inc. v. FGF Brands, Inc., 987 F. Supp. 2d 1023, 1033 (C.D. Cal.
 25

26 ²Although the request for judicial notice states that the declaration was filed in
 27 this case, (see Dkt. No. 13-1, Request for Judicial Notice at 2), the Court notes that the
 28 declaration footer indicates the declaration was filed in Case No. 11-cv-2567. (Dkt. No.
 13-2, Ex. 6.) In any case, the declaration is a duplicate of the judicially noticed
 declaration submitted by Defendant Caesars in support of its motion to dismiss
 Plaintiff's initial Complaint. (Dkt. No. 3-4.)

1 2013) (same); Capitol Records, LLC v. BlueBeat, Inc., 765 F. Supp. 2d 1198, 1200
 2 n.1 (C.D. Cal. 2010) (same). Except as specifically discussed below, the Court
 3 overrules the objections and DENIES Defendant's motions to strike. (Dkt. Nos. 14-
 4 1, 14-2, 14-3.)

5 **III. Motion to Dismiss**

6 Plaintiff asserts the Court may exercise both general and specific jurisdiction
 7 over each Defendant, whereas Defendants contend personal jurisdiction does not
 8 exist under either standard. For the reasons set forth below, the Court finds that
 9 Plaintiff has met her burden of making a *prima facie* showing of this Court's
 10 personal jurisdiction over Defendants Paris Las Vegas Propco, LLC and Defendant
 11 Caesars Entertainment Company. Accordingly, the Court DENIES Defendants'
 12 motion to dismiss Plaintiff's FAC.

13 **A. General Jurisdiction**

14 General personal jurisdiction enables a court to hear cases unrelated to the
 15 defendant's forum activities if the defendant has "substantial" or "continuous and
 16 systematic" contacts with the forum state. Fields v. Sedgwick Associated Risks,
 17 Ltd., 796 F.2d 299, 301 (9th Cir. 1986); see also CollegeSource, Inc. v.
 18 AcademyOne, Inc., 653 F.3d 1066, 1073 (9th Cir. 2011) ("A court may assert
 19 general jurisdiction over foreign [sister-state or foreign-country] corporations to
 20 hear any and all claims against them when their affiliations with the State are so
 21 'continuous and systematic' as to render them essentially at home in the forum
 22 state.") (citing Goodyear Dunlop Tires Operations, S.A. v. Brown, 131 S. Ct. 2846,
 23 2851 (2011)). The standard is an "exacting" one, considering the "[l]ongevity,
 24 continuity, volume, economic impact, physical presence, and integration into the
 25 state's regulatory or economic markets." CollegeSource, Inc., 653 F.3d at 1074
 26 (citing Tuazon v. R.J. Reynolds Tobacco Co., 433 F.3d 1163, 1172 (9th Cir. 2006)).

27 Ordinarily, "[t]he existence of a relationship between a parent company and
 28 its subsidiaries is not sufficient to establish personal jurisdiction over the parent on

1 the basis of the subsidiaries' minimum contacts with the forum." Doe v. Unocal
 2 Corp., 248 F.3d 915, 925 (9th Cir. 2001). However, a subsidiary's contacts may be
 3 imputed to the parent where the subsidiary acts as either the "alter ego" or "general
 4 agent" of the parent. See Bauman v. DaimlerChrysler Corp., 644 F.3d 909, 920 (9th
 5 Cir. 2011), cert. granted, 133 S. Ct. 1995 (2013); Unocal, 248 F.3d at 926-28.

6 The alter ego test is predicated upon a showing of parental control over the
 7 subsidiary, and is satisfied when (1) "there is such a unity of interest and ownership
 8 that the separate personalities of the two entities no longer exist," and (2) "failure to
 9 disregard their separate identities would result in fraud or injustice." Bauman, 644
 10 F.3d at 920. The agency test, on the other hand, is predicated upon the subsidiary's
 11 special importance to the parent corporation. Unocal, 248 F.3d at 928. "Our
 12 starting point for the sufficient importance prong is that a subsidiary acts as an agent
 13 if the parent would undertake to perform the services itself *if it had no*
 14 *representative at all* to perform them." Bauman, 644 F.3d at 921 (emphasis in
 15 original). The agency test also requires the parent corporation to maintain a level of
 16 control over its subsidiary. Id. at 922-23. However, the parent corporation need not
 17 actually exercise control over its subsidiary, as long as the parent corporation has
 18 the right to do so. Id.

19 To support her claim that Defendants are subject to the Court's general
 20 jurisdiction, Plaintiff argues Defendants advertise and directly solicit California
 21 residents via the Caesars "Total Rewards" loyalty program. (Dkt. No. 13 at 3.)
 22 Plaintiff further argues Caesars earns fees through management of Harrah's Rincon
 23 in California, and that Caesars has 100% unity of interest and singular personality
 24 with its California subsidiary, HCAL, LLC, which holds a management agreement
 25 with the Rincon Tribe in California to manage the Rincon Hotel and Casino. (Id. at
 26 5-6.)

27 As an initial matter, the Court notes Plaintiff's response treats Caesars
 28 Entertainment Corporation, Paris Las Vegas Propco, and Paris Las Vegas Operating

1 Company as one entity for the purposes of arguing that Defendants are subject to
2 this Court's general personal jurisdiction. Absent sufficient evidence that the
3 corporate entities are agents or alter egos of each other, the Court declines to do the
4 same.

5 As to Paris Las Vegas Propco, Plaintiff has failed to demonstrate a basis for
6 general personal jurisdiction. Although Plaintiff alleges Paris Las Vegas Propco
7 participated in the Caesars Total Rewards program and advertised in California,
8 evidence of marketing to forum residents, without more, is insufficient to support
9 general jurisdiction. See CollegeSource, Inc., 653 F.3d at 1075 (“Marketing to
10 forum residents, at least where such marketing does not result in substantial and
11 continuous commerce with the forum, does not support general jurisdiction.”);
12 Shute v. Carnival Cruise Lines, 897 F.2d 377, 381-82 (no general jurisdiction
13 despite advertising in the local media, brochure mailings, payment of commission to
14 forum travel agents, and the conducting of promotional seminars in the forum state).

15 As to Defendant Caesars Entertainment Corporation, Plaintiff's argument for
16 general personal jurisdiction relies on imputing the actions of Caesars' subsidiaries
17 onto the parent corporation. Plaintiff argues HCAL, LLC is a subsidiary of Caesars
18 Entertainment Corporation, and that HCAL, LLC has a management contract with
19 the Rincon Tribe to operate the Harrah's Rincon Hotel and Casino in California.
20 Plaintiff further argues that Caesars has published, in marketing and public outreach
21 materials, statements regarding Caesars Entertainment Corporation's substantial
22 business and investment in California. (Dkt. No. 13 at 4-6.)

23 In support of their motion to dismiss, Defendants proffer the declaration of
24 Richard Appel, Senior Vice President and Chief Counsel, Labor and Employment
25 for Caesars Entertainment Corporation, stating that Caesars Entertainment
26 Corporation “does not have offices in California; does not own property in
27 California; does not have employees in California; does not conduct business in
28 California; and, does not have an agent for service of process in California.” (Dkt.

1 No. 11-2, Appel Decl. ¶ 2.)

2 The Court finds that Plaintiff has failed to introduce sufficient evidence
 3 linking Defendant Caesars Entertainment Corporation to the actions of its
 4 subsidiaries in California under either an alter ego or agency theory. Plaintiff has
 5 introduced no evidence that Caesars Entertainment Corporation controls its
 6 subsidiaries that do business in California, or that a unity of interests or ownership
 7 exists between Caesars Entertainment Corporation and its subsidiaries.
 8 Accordingly, the Court finds that Plaintiff has failed to make a *prima facie* showing
 9 that Defendants Paris Las Vegas Propco or Caesars Entertainment Corporation are
 10 subject to general personal jurisdiction in California.

11 **B. Specific Jurisdiction**

12 Plaintiff also claims this Court may exercise specific personal jurisdiction
 13 over Defendants. (Dkt. No. 13 at 6.) The Ninth Circuit employs a three-part test to
 14 determine whether a defendant has sufficient minimum contacts to be subject to
 15 specific personal jurisdiction:

- 16 (1) The non-resident defendant must [a] purposefully direct his
 17 activities or consummate some transaction with the forum or resident
 18 thereof; or [b] perform some act by which he purposefully avails
 19 himself of the privilege of conducting activities in the forum, thereby
 20 invoking the benefits and protections of its laws;
- 21 (2) the claim must be one which arises out of or relates to the
 22 defendant's forum-related activities; and
- 23 (3) the exercise of jurisdiction must comport with fair play and
 24 substantial justice, i.e. it must be reasonable.

25 Washington Shoe, 704 F.3d at 672; see also Lake v. Lake, 817 F.2d 1416, 1421 (9th
 26 Cir. 1987). In analyzing whether the assertion of specific jurisdiction over a given
 27 defendant would be justified, the plaintiff has the burden of satisfying the first two
 28 prongs of the test. CollegeSource, Inc. v. AcademyOne, Inc., 653 F.3d 1066, 1076 (9th
 Cir. 2011). If the plaintiff does so, the burden then shifts to the defendant to present
 a "compelling case" that the exercise of jurisdiction would not be reasonable. Id.

//

1. Purposeful Direction

The Supreme Court has held that due process permits the exercise of jurisdiction over a defendant, even in the absence of physical contacts with the forum, so long as the defendant “purposefully direct[s]” its activities at residents of a forum. Burger King Corp. v. Rudezewicz, 471 U.S. 462, 476 (1985). A “purposeful direction” analysis, most often used in cases sounding in tort, requires “evidence of the defendant’s actions outside the forum state that are directed at the forum.” Schwarzenegger v. Fred Martin Motor Co., 374 F.3d 797, 802-03 (9th Cir. 2004). The Ninth Circuit applies an “effects” test to determine whether there has been purposeful direction, analyzing whether the defendant has been alleged to have: “(1) committed an intentional act, (2) expressly aimed at the forum state, (3) causing harm that the defendant knows is likely to be suffered in the forum state.” CollegeSource, Inc. v. AcademyOne, Inc., 653 F.3d 1066, 1077 (9th Cir. 2011) (citing Brayton Purcell LLP v. Recordon & Recordon, 606 F.3d 1124, 1128 (9th Cir. 2010)). The “express aiming” requirement “is satisfied when ‘the defendant is alleged to have engaged in wrongful conduct targeted at a plaintiff whom the defendant knows to be a resident of the forum state.’” Id. (citing Dole Food Co. v. Watts, 303 F.3d 1104, 1111 (9th Cir. 2002)).

18 In support of a finding that Defendants purposefully directed activity toward
19 California, Plaintiff argues Defendants purposefully “bombard California residents
20 with advertisements and solicitations to visit the Paris Las Vegas Casino & Resort,
21 Harrah’s Rincon Casino & Resort, and Defendant Casears other properties.” (Dkt. No.
22 13 at 7) (citing Dkt. No. 13-3, Rowland Decl. Ex. A). According to Plaintiff, after
23 California residents stay at Paris Las Vegas Hotel, a Caesars casino host personally
24 contacts the guest to invite them back for another stay. (*Id.*) (citing Dkt. No. 13-4,
25 Holcombe Decl. Ex. C). Furthermore, Plaintiff and her travel companion Carol
26 Holcombe declare that Defendants maintain and participate in a “Total Rewards”
27 program, under which Plaintiff and Holcombe accumulated “Total Rewards” points at
28 the Harrah’s Rincon Hotel and Casino in California and redeemed those points for

1 complimentary accommodations at the Paris Las Vegas Hotel in Las Vegas, Nevada.
 2 (See Dkt. Nos. 13-3, 13-4.)

3 As to Defendant Paris Las Vegas Propco, the Court finds that Plaintiff has met
 4 her burden of establishing facts that, if true, would support personal jurisdiction over
 5 the Defendant. See Ballard v. Savage, 65 F.3d 1495, 1498 (9th Cir. 1995). Plaintiff has
 6 introduced evidence that the Paris Las Vegas Hotel participates in the “Total Rewards”
 7 program and advertisements, which encourage customers to accumulate “Total
 8 Rewards” points by visiting participating establishments in California and to redeem
 9 them at other participating hotels and casinos, including the Paris Las Vegas Hotel and
 10 Casino in Las Vegas, Nevada. (Dkt. No. 13-3, Rowland Decl. ¶¶ 3-5.) Plaintiff’s
 11 uncontested allegations establish that Paris Las Vegas Propco “benefitted from the
 12 Total Rewards loyalty program’s marketing and technological capabilities relating to
 13 Defendant Caesars’ nationwide casino network, including the Harrah’s Rincon Hotel
 14 & Casino in Valley Center, California.” (Dkt. No. 8, FAC ¶ 6.) As alleged in the FAC,
 15 Paris Las Vegas Propco’s involvement in the “Total Rewards” program enabled it to
 16 “efficiently market its products to a large and recurring customer base in California,
 17 and successfully drive cross-property play from the Harrah’s Rincon Hotel & Casino
 18 to Defendant Paris Las Vegas.” (Id.) Furthermore, Plaintiff alleges she frequently
 19 received incentives to seek out the Paris Las Vegas Hotel & Casino and other Casears
 20 properties as a California resident who accumulated “Total Rewards” points by
 21 frequenting the Harrah’s Rincon Hotel & Casino in California. (Id. ¶ 13.) Plaintiff’s
 22 uncontested allegations and declarations therefore establish that Defendant Paris
 23 Las Vegas Propco participated in the Caesars “Total Rewards” program, “expressly
 24 aiming” to solicit business from California residents such as Plaintiff who frequent
 25 California hotels and casinos.

26 In addition, Plaintiff has introduced evidence that the Paris Las Vegas Hotel
 27 granted complimentary accommodation to Plaintiff and Carol Holcombe for the hotel
 28 stay at issue in this case. (Dkt. No. 13-3, Rowland Decl. ¶¶ 3-5; Dkt. No. 13-4,

1 Holcombe Decl. ¶¶ 3-5.) According to Plaintiff, a Casino Host at the Harrah's Rincon
 2 Hotel and Casino in Valley Center, California arranged for the complimentary room at
 3 the Paris Las Vegas Hotel for the visit at issue in this case. (Dkt. No. 8, FAC ¶ 14.)
 4 Combined with Plaintiff's allegations regarding the frequent offers Plaintiff received
 5 to redeem Total Reward loyalty program "points" at Paris Las Vegas Hotel & Casino
 6 and other Caesars hotel and casino properties, (*id.* ¶ 13), the Court finds that Plaintiff's
 7 evidence and uncontested allegations are sufficient to make a *prima facie* showing
 8 that Defendant Paris Las Vegas Propco purposefully directed its activities to California
 9 and California residents who, like Plaintiff and Ms. Holcombe, patronize Harrah's
 10 Rincon and participate in the Total Rewards Program. See Day v. Harrah's Hotel &
 11 Casino Las Vegas, No. 10cv1746-WQH-JMA, 2010 U.S. Dist. LEXIS 116817 at *14-
 12 15 (S.D. Cal. 2010).

13 As to Defendant Caesars Entertainment Corporation, Plaintiff's uncontested
 14 allegations in her First Amended Complaint state that Caesars started and continues to
 15 operate the Total Rewards loyalty program. (Dkt. No. 8, FAC ¶ 6.) Plaintiff has further
 16 submitted a declaration stating that she received and continues to receive
 17 advertisements and solicitations from Caesars Entertainment Corporation encouraging
 18 Plaintiff to use the Total Rewards points she accumulated in California at other hotels
 19 within the Total Rewards program, including the Paris Las Vegas Hotel and Casino.
 20 (Dkt. No. 13-3 ¶¶ 3-4, Ex. A.)

21 Defendants argue Plaintiff's submitted email solicitations "clearly show the
 22 advertisements were unrelated to California and the alleged injuries in this case"
 23 because the emails "do not reference California [or] provide any facts indicating that
 24 they were targeted at California residents. (Dkt. No. 14 at 6) (citing Circle Click Media
 25 LLC v. Regus Mgmt. Grp. LLC, 12-04000 SC, 2013 WL 57861 *4 (N.D. Cal. Jan. 3,
 26 2013)). In Circle Click Media LLC, the court found that an general advertisement email
 27 sent generically to "award@circleclick.com" which made no reference to California
 28 and was sent after the plaintiff's injury could not demonstrate that the defendant had

1 expressly aimed activities at California. 2013 WL 57861 at *4. The Court finds the
 2 present case distinguishable.

3 First, the Court's review of Plaintiff's submitted emails shows that at least some
 4 of the emails Plaintiff received were directed "EXCLUSIVELY FOR: ELIZABETH
 5 ROWLAND," stating her total rewards number. (See, e.g., Dkt. No. 13-3, Rowland
 6 Decl. Ex. A at 2, 5, 8, 10, 15) (emphasis in original). In addition, the emails were
 7 addressed to Plaintiff at her personal email address. (Id. ¶ 4.) Unlike the general
 8 advertisement email at issue in Circle Click Media LLC, the emails at issue here were
 9 "expressly aimed" at Plaintiff, a California resident.

10 Furthermore, the Court notes that Defendants argue Plaintiff's submitted emails
 11 could not have enticed Plaintiff to visit the Paris Las Vegas Hotel for the visit at issue
 12 because "the solicitations relate to events dated one year *after* her fall in May 2013."
 13 (Dkt. No. 14 at 6) (emphasis in original). However, Plaintiff's declaration states in the
 14 present tense that she constantly receives said advertisements as a Total Rewards
 15 member, (Dkt. No. 13-3, Rowland Decl. ¶ 4), and indicates that the submitted
 16 advertisements and solicitations attached to her declaration are illustrative rather than
 17 exclusive. (Id. ¶ 4) ("Attached hereto as Exhibit A are true and correct copies of some
 18 of the advertisements and solicitations I received via email from Caesars.") (emphasis
 19 added). Accordingly, given: (1) Plaintiff's uncontested allegations regarding
 20 Caesars' operation of the Total Rewards Program; and (2) Plaintiff's declaration
 21 evidence regarding the advertisements Plaintiff received at her personal email address
 22 directed "exclusively" to her as a California resident, the Court finds that, as with
 23 Defendant Paris Las Vegas Propco, Plaintiff's evidence and uncontested allegations
 24 are sufficient to make a *prima facie* showing that Defendant Caesars Entertainment
 25 Corporation purposefully directed activities to California and California residents. See
 26 Day, 2010 U.S. Dist. LEXIS 116817 at *14-15.

27 **2. Arising out of Forum-related Activities**

28 To be sufficient for specific personal jurisdiction, Defendants' "purposefully

1 directed” forum-related activity must have caused Plaintiff’s alleged injury. Omeluk
 2 v. Langsten Slip & Batbyggeri A/S, 52 F.3d 267, 271 (9th Cir. 1995) (“[A] claim arises
 3 out of the forum-related activities if it would not have happened but for the forum-
 4 related activities.”). Plaintiff submits a declaration stating that she and her friends
 5 “selected Paris Las Vegas for [their] accommodations in May 2013 because we are
 6 members of Total Rewards, and because of the advertisements and solicitations we
 7 constantly receive from Caesars.” (Dkt. No. 13-3, Rowland Decl. ¶ 4.) Furthermore,
 8 Plaintiff’s submitted declarations state that Plaintiff was injured when she stayed at the
 9 complimentary room provided to her by Paris Las Vegas Hotel due to her and Ms.
 10 Holcombe’s membership in the Total Rewards program. (Dkt. Nos. 13-3, 13-4.)

11 Defendants argue Plaintiff has failed to demonstrate the existence of case-related
 12 contacts because Rowland admits she “went to Las Vegas to attend a wedding and
 13 happened to stay while there at Paris Las Vegas.” (Dkt. No. 14 at 7) (citing Dkt. No.
 14 5-1 ¶ 5). As an initial matter, Defendants’ cited Declaration of Elizabeth Rowland does
 15 not appear to support Defendants’ characterization. Furthermore, for the purposes of
 16 deciding whether a *prima facie* case for personal jurisdiction exists, conflicts between
 17 the facts contained in the parties’ affidavits must be resolved in the Plaintiff’s favor.
 18 AT & T Co., 94 F.3d at 588. The Court therefore finds that Plaintiff’s declarations
 19 present a sufficient *prima facie* showing that Plaintiff would not have stayed at Paris
 20 Las Vegas Hotel and Casino for the visit at issue in this case but for Defendants’
 21 forum-related activities. See Shute v. Carnival Cruise Lines, 897 F.2d 377, 386 (9th
 22 Cir. 1990); see also Day, 2010 U.S. Dist. LEXIS 116817 at *15.

23 3. **Reasonableness**

24 As Plaintiff has made a *prima facie* case for specific personal jurisdiction, the
 25 burden shifts to Defendants to present a “compelling case” that this Court’s exercise
 26 of jurisdiction over Defendants would not be reasonable. CollegeSource, Inc. v.
27 AcademyOne, Inc., 653 F.3d 1066, 1076 (9th Cir. 2011). “For jurisdiction to be
 28 reasonable, it must comport with fair play and substantial justice.” Bancroft & Masters,

1 Inc. v. Augusta Nat'l Inc., 223 F.3d 1082, 1088 (9th Cir. 2000) (citing Burger King,
 2 471 U.S. at 476). In making this determination, courts consider:

3 [1] the extent of purposeful interjection, [2] the burden on the defendant
 4 to defend the suit in the chosen forum, [3] the extent of conflict with the
 5 sovereignty of the defendant's state, [4] the forum state's interest in the
 6 dispute, [5] the most efficient forum for judicial resolution of the dispute,
 7 [6] the importance of the chosen forum to the plaintiff's interest in
 8 convenient and effective relief, and [7] the existence of an alternative
 9 forum."

10 Shute v. Carnival Cruise Lines, 897 F.2d 377, 386 (9th Cir. 1988) (numbers added)
 11 (citing Federal Deposit Ins. Corp. v. British-Am. Ins. Co., Ltd., 828 F.2d 1439, 1442
 12 (9th Cir. 1987)).

13 Defendants argue this Court's exercise of jurisdiction over Defendants would not
 14 be reasonable because Defendants do not have offices, have employees, own property,
 15 conduct business, or have an agent for service of process in California. (Dkt. No. 14
 16 at 8.) Defendants further argue the injuries sustained by Plaintiff are unrelated to
 17 California and "occurred exclusively in the State of Nevada." (Id.)

18 The Court finds that these arguments fall short of presenting a "compelling case"
 19 that this Court's exercise of jurisdiction over Defendants would not be reasonable.
 20 First, the Court has found that Defendants purposefully directed activities toward the
 21 forum state. The Ninth Circuit has indicated that once a Plaintiff shows purposeful
 22 direction, the "extent of purposeful interjection" is no longer given any weight. Shute,
 23 897 F.2d at 386 (citing Corporate Inv. Business Brokers v. Melcher, 824 F.2d 786, 790
 24 (9th Cir. 1987)). Second, although Defendants would prefer to litigate in Nevada,
 25 Defendants have not made a showing that the burden of defending this suit in
 26 California would be overwhelming. The Court finds that it would be at least as
 27 burdensome for Plaintiff to pursue this action in Nevada as it would for Defendants to
 28 defend it in California; accordingly, this factor does not strongly favor dismissal. See
Shute, 897 F.2d at 386-87.

29 Third, conflict with the sovereignty of Nevada does not weigh strongly in favor
 30 of dismissal, because choice-of-law rules may accommodate any concerns regarding
 31 possible conflict with Nevada's sovereignty. Shute, 897 F.2d at 387 ("[T]his circuit has

1 stated that choice-of-law rules, rather than jurisdictional rules, are more appropriate to
 2 accommodate conflicting sovereignty interests.”) (citing Hirsch v. Blue Cross, Blue
 3 Shield, 800 F.2d 1474, 1481 (9th Cir. 1986)). Fourth, on the other hand, California has
 4 a strong interest in protecting its citizens against the tortious acts of others. See
 5 Cubbage v. Merchant, 744 F.2d 665, 671 (9th Cir. 1984) (“California obviously has an
 6 interest in protecting its citizens against the tortious conduct of others.”).

7 Fifth, on the record before the Court, consideration of the “most efficient forum
 8 for judicial resolution of the dispute” favors the exercise of jurisdiction over
 9 Defendants. Plaintiff’s counsel declares that Plaintiff has at least six health care
 10 providers and at least five separate additional witnesses who reside in California. (Dkt.
 11 No. 13-5 ¶¶ 13-17.) On the other hand, Defendants indicate five Paris Las Vegas
 12 employees may be necessary witnesses in this case. (Dkt. No. 14 at 9) (citing Dkt. Nos.
 13 11-5, 11-6, Roberts Decl. Exs. 1, 2.) Defendants argue these witnesses “are located in
 14 Nevada” and that “this Court will be unable to compel their appearance at trial or for
 15 deposition in the Southern District.” (Id.) The Court finds that as between Nevada and
 16 California, the two states capable of exercising jurisdiction in this case, California is
 17 the more efficient forum. In particular, some if not all of Defendants’ witnesses may
 18 be employees of Defendant Paris Las Vegas Propco and thus may be compelled to
 19 testify as party witnesses,³ while Plaintiff declares that litigating in Nevada would force
 20 her to “pay the travel expenses, lodging, and travel time fees for each of my health care
 21 providers to testify at trial” and that many of her additional witnesses “do not have the
 22 time and/or financial resources to travel to Las Vegas, Nevada, during the work week.”
 23 (Dkt. No. 13-3, Rowland Decl. ¶¶ 11-12.) This factor therefore weighs in favor of
 24 jurisdiction.

25 Sixth, Plaintiff has declared that litigating her claims in Las Vegas, Nevada

26
 27 ³The Court notes that Defendants have not specifically stated that each of the
 28 persons listed on the “Incident File Full Report” and “Accident Scene Check”
 submitted by Defendants will be witnesses in this case; neither have Defendants
 affirmed whether the individuals are all employees of Defendant Paris Las Vegas
 Propco.

1 would “be incredibly inconvenient and expensive” for her. (Id. ¶ 11.) As the Ninth
 2 Circuit found to be the case in Shute, dismissal of the present suit from Plaintiff’s
 3 choice of forum may prevent Plaintiff from obtaining relief, making the sixth
 4 “reasonableness” factor weigh heavily in favor of the exercise of jurisdiction. 897 F.2d
 5 at 387.

6 Seventh, the final factor, the “existence of an alternative forum,” does not dictate
 7 a contrary result. On balance, the seven “reasonableness” factors courts consider for
 8 the purposes of determining personal jurisdiction weigh in favor of the exercise of this
 9 Court’s jurisdiction over Defendants. Defendants have not presented “compelling
 10 reasons” why the exercise of jurisdiction would be unreasonable. Accordingly, the
 11 Court finds that Plaintiff has established this Court’s personal jurisdiction over
 12 Defendants in California and DENIES Defendants’ motion to dismiss Plaintiff’s FAC
 13 for lack of personal jurisdiction.

14 **IV. Transfer of Venue**

15 In the alternative, Defendants move this Court to transfer this action to Nevada
 16 under 28 U.S.C. § 1404(a). (Dkt. No. 11-1 at 14.) “For the convenience of parties and
 17 witnesses, in the interest of justice, a district court may transfer a civil action to any
 18 other district or division where it might have been brought.” 28 U.S.C. § 1404. Under
 19 § 1404(a), the district court has discretion “to adjudicate motions to transfer according
 20 to an ‘individualized, case-by-case consideration of convenience and fairness.’” Jones
 21 v. GNC Franchising, Inc., 211 F.3d 495, 498 (9th Cir. 2000) (citing Stewart Org. v.
 22 Ricoh Corp., 487 U.S. 22, 29 (1998)). In adjudicating such motions, the court weighs
 23 multiple factors to determine whether transfer is appropriate, including “(1) the
 24 location where the relevant agreements were negotiated and executed, (2) the state that
 25 is most familiar with the governing law, (3) the plaintiff’s choice of forum, (4) the
 26 respective parties’ contacts with the forum, (5) the contacts relating to the plaintiff’s
 27 cause of action in the chosen forum, (6) the differences in the costs of litigation in the
 28 two forums, (7) the availability of compulsory process to compel attendance of

1 unwilling non-party witnesses, and (8) the ease of access to sources of proof.” Jones,
 2 211 F.3d at 498-99. “The defendant must make a strong showing of inconvenience to
 3 warrant upsetting the plaintiff’s choice of forum.” Decker Coal Co. v. Commonwealth
 4 Edison Co., 805 F.2d 834, 841 (9th Cir. 1986).

5 Defendants argue “every act and every alleged breach of duty are all tied to
 6 Nevada,” and that Defendants and Plaintiff’s cause of action “have no case-related
 7 contacts” with California. (Dkt. No. 11-1 at 15.) Furthermore, Defendants argue “most
 8 of the witnesses are no doubt located in Nevada” and that “compulsory process will be
 9 available in Nevada, and the parties will be able to best secure witness attendance in
 10 that state.” (Id. at 17.)

11 The Court disagrees. Although it is undisputed that Plaintiff’s alleged injury
 12 occurred in Nevada, and that Nevada law governs this action, Defendants have not
 13 made a strong showing as to the difference in cost of litigation in the two forums, the
 14 availability of compulsory process to compel attendance of non-party witnesses, or ease
 15 of access to sources of proof. See Jones, 211 F.3d at 498-99. Defendants’ motion
 16 assumes without demonstrating that witnesses to the incident at issue are located
 17 primarily in Nevada. Although Defendants have introduced an “Incident File Full
 18 Report” and “Accident Scene Check,” (Dkt. No. 11-5, 11-6), showing what Defendants
 19 claim to be evidence of “numerous Nevada residents were involved in assisting and
 20 investigating ROWLAND’s claims,” (Dkt. No. 11-1 at 17), Defendants have not
 21 specified whether any of the individuals mentioned in those documents are witnesses,
 22 what they would testify to, or whether they are employees of either Defendant in this
 23 case. As other courts have found, the inconvenience caused by out-of-forum witnesses
 24 must be discounted where the witnesses are current employees of the defendant and
 25 may be compelled by the defendant to testify in the forum. See Tamashiro v. Harvey,
 26 487 F. Supp. 2d 1162, 1171 (D. Haw. 2006); Day, 2010 U.S. Dist. LEXIS 116817 at
 27 *21. While it appears that many, if not all, of Defendants’ identified witnesses are
 28 employees of Paris Las Vegas, Plaintiff on the other hand has submitted declarations

1 detailing the California-based witnesses she requires as well as the inconvenience,
2 expense, and unavailability of witnesses that affect her ability to litigate in Nevada.
3 Furthermore, although Defendants state “at trial it may become necessary for the jury
4 to view the place of the alleged negligence,” Defendants do not explain why a jury
5 would need to view the physical location at issue and point to no other physical
6 evidence located in Nevada that makes Nevada a more convenient forum than
7 California.

8 Given: (1) the Court’s finding that Defendants purposefully directed activities
9 toward California and toward Plaintiff as a California resident; (2) Plaintiff’s choice
10 to litigate in California; and (3) Plaintiff’s showing that her numerous non-party
11 witnesses reside in California and that litigating in Nevada would be both inconvenient
12 and expensive, the Court concludes that Defendants have failed to satisfy their burden
13 of demonstrating that Nevada is a more convenient forum such that transfer to Nevada
14 would serve the interests of justice. 28 U.S.C. § 1404(a). The Court therefore DENIES
15 Defendants’ motion in the alternative for transfer of venue pursuant to section 1404(a).

16 **CONCLUSION**

17 For the foregoing reasons, the Court hereby **ORDERS**:

18 1. Defendants’ Motion to Dismiss (Dkt. No. 11) is **DENIED**.
19 2. Defendants’ alternative Motion to Transfer Venue is **DENIED**. (Dkt. No. 11.)
20 3. The hearing date for this motion scheduled for Friday, August 8, 2014 is

21 **VACATED**.

22 **IT IS SO ORDERED.**

23 DATED: August 6, 2014

24 
25 HON. GONZALO P. CURIEL
26 United States District Judge
27
28